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UNITED STATES BANKRUPTCY COURT EASTERN DISTRICT OF VIRGINIA

11-32245

CHAPTER 13 PLAN AND RELATED MOTIONS

Name of Debtor(s):	Donald Duane Smith, Jr.	Case No:
This plan, dated April	1, 2011 , is:	
□ a	ne <i>first</i> Chapter 13 plan filed in this case. modified Plan, which replaces the lconfirmed or \(\square\) unconfirmed Plan dated.	
Г	Pate and Time of Modified Plan Confirming Hearing:	

Place of Modified Plan Confirmation Hearing:

The Plan provisions modified by this filing are:

Creditors affected by this modification are:

NOTICE: YOUR RIGHTS WILL BE AFFECTED. You should read these papers carefully. If you oppose any provision of this Plan, or if you oppose any included motions to (i) value collateral, (ii) avoid liens, or (iii) assume or reject unexpired leases or executory contracts, you MUST file a timely written objection.

This Plan may be confirmed and become binding, and the included motions in paragraphs 3, 6, and 7 to value collateral, avoid liens, and assume or reject unexpired leases or executory contracts may be granted, without further notice or hearing unless a written objection is filed not later than seven (7) days prior to the date set for the confirmation hearing and the objecting party appears at the confirmation hearing.

The debtor(s)' schedules list assets and liabilities as follows:

Total Assets: \$365,709.13

Total Non-Priority Unsecured Debt: \$67,985.00

Total Priority Debt: **\$13,515.00**Total Secured Debt: **\$339,047.00**

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- **1. Funding of Plan.** The debtor(s) propose to pay the trustee the sum of **\$615.00 Monthly for 57 months**. Other payments to the Trustee are as follows: **NONE**. The total amount to be paid into the plan is \$ **35,055.00**.
- **2. Priority Creditors.** The Trustee shall pay allowed priority claims in full unless the creditor agrees otherwise.
 - A. Administrative Claims under 11 U.S.C. § 1326.
 - 1. The Trustee will be paid the percentage fee fixed under 28 U.S.C. § 586(e), not to exceed 10%, of all sums disbursed except for funds returned to the debtor(s).
 - 2. Debtor(s)' attorney will be paid \$\(\frac{2,774.00}{} \) balance due of the total fee of \$\(\frac{3,000.00}{} \) concurrently with or prior to the payments to remaining creditors.
 - B. Claims under 11 U.S.C. §507.

The following priority creditors will be paid by deferred cash payments pro rata with other priority creditors or in monthly installments as below, except that allowed claims pursuant to 11 U.S.C. § 507(a)(1) will be paid prior to other priority creditors but concurrently with administrative claims above:

Creditor	Type of Priority	Estimated Claim	Payment and Term
Internal Revenue Service	Taxes and certain other debts	13,400.00	Prorata
			26 months
VA Dept of Taxation	Taxes and certain other debts	115.00	Prorata
			26 months

- 3. Secured Creditors: Motions to Value Collateral ("Cramdown"), Collateral being Surrendered, Adequate Protection Payments, and Payment of certain Secured Claims.
 - A. Motions to Value Collateral (other than claims protected from "cramdown" by 11 U.S.C. § 1322(b)(2) or by the final paragraph of 11 U.S.C. § 1325(a)). Unless a written objection is timely filed with the Court, the Court may grant the debtor(s)' motion to value collateral as set forth herein.

This section deals with valuation of certain claims secured by real and/or personal property, other than claims protected from "cramdown" by 11 U.S.C. § 1322(b)(2) [real estate which is debtor(s)' principal residence] or by the final paragraph of 11 U.S.C. § 1325(a) [motor vehicles purchased within 910 days or any other thing of value purchased within 1 year before filing bankruptcy], in which the replacement value is asserted to be less than the amount owing on the debt. Such debts will be treated as secured claims only to the extent of the replacement value of the collateral. That value will be paid with interest as provided in sub-section D of this section. You must refer to section 3(D) below to determine the interest rate, monthly payment and estimated term of repayment of any "crammed down" loan. The deficiency balance owed on such a loan will be treated as an unsecured claim to be paid only to the extent provided in section 4 of the Plan. The following secured claims are to be "crammed down" to the following values:

Creditor	Collateral	Purchase Date	Est Debt Bal.	Replacement Value
Anderson	1997 Ford E350 van, 180K		1,300.00	3,950.00
Financial Serv				
Citifinancial	2001 Buick Century, 230K	Opened 12/01/09	10,000.00	4,275.00
		Last Active		
		2/25/11		

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B. Real or Personal Property to be Surrendered.

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Upon confirmation of the Plan, or before, the debtor(s) will surrender his/her/their interest in the collateral securing the claims of the following creditors in satisfaction of the secured portion of such creditors' allowed claims. To the extent that the collateral does not satisfy the claim, any timely filed deficiency claim to which the creditor is entitled may be paid as a non-priority unsecured claim. Confirmation of the Plan shall terminate the automatic stay as to the interest of the debtor(s) and the estate in the collateral.

CreditorCollateral DescriptionEstimated ValueEstimated Total ClaimBank of AmericaLocation: 343 Mallard Dr. Colonial192,000.00192,000.00

Heights, VA 23834

Property value \$233,000 minus \$10,000 owed to ex-wife per divorce

decree

\$192,000 lien on property in ex-wife's

name only

House being surrendered

C. Adequate Protection Payments.

The debtor(s) propose to make adequate protection payments required by 11 U.S.C. § 1326(a) or otherwise upon claims secured by personal property, until the commencement of payments provided for in sections 3(D) and/or 6(B) of the Plan, as follows:

CreditorCollateral DescriptionAdeq. Protection
Monthly PaymentTo Be Paid ByAnderson Financial Serv1997 Ford E350 van, 180K
2001 Buick Century, 230K50.00Trustee

Any adequate protection payment upon an unexpired lease of personal property assumed by the debtor(s) pursuant to section 6(B) of the Plan shall be made by the debtor(s) as required by 11 U.S.C. § 1326(a)(1)(B) (payments coming due after the order for relief).

D. Payment of Secured Claims on Property Being Retained (except only those loans provided for in section 5 of the Plan):

This section deals with payment of debts secured by real and/or personal property [including short term obligations, judgments, tax liens and other secured debts]. After confirmation of the Plan, the Trustee will pay to the holder of each allowed secured claim, which will be either the balance owed on the indebtedness or, where applicable, the collateral's replacement value as specified in sub-section A of this section, whichever is less, with interest at the rate provided below, the monthly payment specified below until the amount of the secured claim has been paid in full. Upon confirmation of the Plan, the valuation and interest rate shown below will be binding unless a timely written objection to confirmation is filed with and sustained by the Court.

Creditor	Collateral	Approx. Bal. of Debt or "Crammed Down" Value	Interest Rate	Monthly Paymt & Est. Term**
Anderson	1997 Ford E350 van, 180K	1,300.00	5%	Prorata
Financial Serv	•	•		22 months
Citifinancial	2001 Buick Century, 230K	4,275.00	5%	Prorata
	-			22 months

E. Other Debts.

Debts which are (i) mortgage loans secured by real estate which is the debtor(s)' primary residence, or (ii) other long term obligations, whether secured or unsecured, to be continued upon the existing contract terms with any existing default in payments to be cured pursuant to 11 U.S.C. § 1322(b)(5), are provided for in section 5 of the Plan.

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1	Unsecured Claims.	1	1 -	-3	2	2	4 [-
	Chiscourea Claims.	_	_	\sim		_	_ \	_

- A. Not separately classified. Allowed non-priority unsecured claims shall be paid pro rata from any distribution remaining after disbursement to allowed secured and priority claims. Estimated distribution is approximately ____5
 %. The dividend percentage may vary depending on actual claims filed. If this case were liquidated under Chapter 7, the debtor(s) estimate that unsecured creditors would receive a dividend of approximately _____0
 %.
- B. Separately classified unsecured claims.

Creditor	Basis for Classification	Treatment
-NONE-		

- 5. Mortgage Loans Secured by Real Property Constituting the Debtor(s)' Primary Residence; Other Long Term Payment Obligations, whether secured or unsecured, to be continued upon existing contract terms; Curing of any existing default under 11 U.S.C. § 1322(b)(5).
 - A. **Debtor(s) to make regular contract payments; arrears, if any, to be paid by Trustee.** The creditors listed below will be paid by the debtor(s) pursuant to the contract without modification, except that arrearages, if any, will be paid by the Trustee either pro rata with other secured claims or on a fixed monthly basis as indicated below, without interest unless an interest rate is designated below for interest to be paid on the arrearage claim and such interest is provided for in the loan agreement.

		Regular		Arrearage		Monthly
		Contract	Estimated	Interest	Estimated	Arrearage
Creditor	Collateral	Payment	Arrearage	Rate	Cure Period	Payment
Wells Fargo Hm	Location: 425 Hamilton Ave,	1,025.00	6,000.00	0%	22 months	Prorata
Mortgag	Colonial Heights, VA 23834					

B. Trustee to make contract payments and cure arrears, if any. The Trustee shall pay the creditors listed below the regular contract monthly payments that come due during the period of this Plan, and pre-petition arrearages on such debts shall be cured by the Trustee either pro rata with other secured claims or with monthly payments as set forth below.

		Regular			Monthly
		Contract	Estimated Interest	Term for	Arrearage
Creditor	Collateral	Payment	Arrearage Rate	Arrearage	Payment
-NONE-		 _			

C. Restructured Mortgage Loans to be paid fully during term of Plan. Any mortgage loan against real estate constituting the debtor(s)' principal residence upon which the last scheduled contract payment is due before the final payment under the Plan is due shall be paid by the Trustee during the term of the Plan as permitted by 11 U.S.C. § 1322(c)(2) with interest at the rate specified below as follows:

Creditor	Collateral	Interest Rate	Estimated Claim	Monthly Paymt& Est. Term**
-NONE-	<u></u>	Kate	Ciaiii	

- **6. Unexpired Leases and Executory Contracts.** The debtor(s) move for assumption or rejection of the executory contracts and leases listed below.
 - **A. Executory contracts and unexpired leases to be rejected.** The debtor(s) reject the following executory contracts.

<u>Creditor</u>	Type of Contract	
-NONE-		

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B. Executory contracts and unexpired leases to be assumed. The debtor(s) assume the following executory 2 2 4 5 contracts. The debtor agrees to abide by all terms of the agreement. The Trustee will pay the pre-petition arrearages, if any, through payments made pro rata with other priority claims or on a fixed monthly basis as indicated below.

Creditor Type of Contract Arrearage For Arrears Cure Period

-NONE
Monthly
Payment Estimated
for Arrears
Cure Period

- 7. Liens Which Debtor(s) Seek to Avoid.
 - A. The debtor(s) move to avoid liens pursuant to 11 U.S.C. § 522(f). The debtor(s) move to avoid the following judicial liens and non-possessory, non-purchase money liens that impair the debtor(s)' exemptions. Unless a written objection is timely filed with the Court, the Court may grant the debtor(s)' motion and cancel the creditor's lien. If an objection is filed, the Court will hear evidence and rule on the motion at the confirmation hearing.

<u>Creditor</u> <u>Collateral</u> <u>Exemption Amount</u> <u>Value of Collateral</u>

B. Avoidance of security interests or liens on grounds other than 11 U.S.C. § 522(f). The debtor(s) have filed or will file and serve separate pleadings to avoid the following liens or security interests. The creditor should review the notice or summons accompanying such pleadings as to the requirements for opposing such relief. The listing here is for information purposes only.

<u>Creditor</u> <u>Type of Lien</u> <u>Description of Collateral</u> <u>Basis for Avoidance</u>

- 8. Treatment and Payment of Claims.
 - All creditors must timely file a proof of claim to receive payment from the Trustee.
 - If a claim is scheduled as unsecured and the creditor files a claim alleging the claim is secured but does not timely object to confirmation of the Plan, the creditor may be treated as unsecured for purposes of distribution under the Plan. This paragraph does not limit the right of the creditor to enforce its lien, to the extent not avoided or provided for in this case, after the debtor(s) receive a discharge.
 - If a claim is listed in the plan as secured and the creditor files a proof of claim alleging the claim is unsecured, the creditor will be treated as unsecured for purposes of distribution under the Plan.
 - The Trustee may adjust the monthly disbursement amount as needed to pay an allowed secured claim in full.
- **9. Vesting of Property of the Estate.** Property of the estate shall revest in the debtor(s) upon confirmation of the Plan. Notwithstanding such vesting, the debtor(s) may not sell, refinance, encumber real property or enter into a mortgage loan modification without approval of the Court after notice to the Trustee, any creditor who has filed a request for notice and other creditors to the extent required by the Local Rules of this Court.
- 10. Incurrence of indebtedness. The debtor(s) shall not voluntarily incur additional indebtedness exceeding the cumulative total of \$5,000 principal amount during the term of this Plan, either unsecured or secured against personal property, except upon approval of the Court after notice to the Trustee, any creditor who has filed a request for notice, and other creditors to the extent required by the Local Rules of this Court.
- 11. Other provisions of this plan:
 - 1.Bank of America shall foreclose and sell property known as 343 Mallard Drive, Colonial Heights VA and surplus funds after the payoff of the mortgage and cost of sale shall be turned over to the Trustee.
 - 2.the proceeds, consistent with paragraph 1 above, are in addition to the total funding of this plan and are required to meet the liquidation analysis for this asset, which is in addition to the liquidation of other assets already addressed in the current total funding, and are to be immediately disbursed to unsecured claimholders, upon receipt and verification of funds being cleared, at the next disburse following receipt of the funds by the Trustee.

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Signatures:				11-3224
Dated: A	oril 1, 2011			
	uane Smith, Jr.		/s/ Richard Oulton	
Donald Duai Debtor	ne Smith, Jr.		Richard Oulton Debtor's Attorney	
Exhibits:	Copy of Debtor(s)' Bud Matrix of Parties Serv	dget (Schedules I and J); ed with Plan		
		Certificate of Service	e	
I cert Service List.	tify that on April 1, 2011	_, I mailed a copy of the foregoing	g to the creditors and parties in inte	rest on the attached
		/s/ Richard Oulton		
		Richard Oulton Signature		
		The Debt Law Group, Plic 111 Highland Ave		
		Colonial Heights, VA 23834 Address		
		804-520-2428		
		Telephone No.		

Ver. 09/17/09 [effective 12/01/09]

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B6I (Official Form 6I) (12/07)

In re	Donald Duane Smith, Jr.		Case No.	11-32245
		Debtor(s)		

SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTOR(S)

The column labeled "Spouse" must be completed in all cases filed by joint debtors and by every married debtor, whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. Do not state the name of any minor child. The average monthly income calculated on this form may differ from the current monthly income calculated on Form 22A, 22B, or 22C.

Debtor's Marital Status:	DEPENDENTS OF DEBTOR AND SPOUSE						
Divorced	RELATIONSHIP(S): Daughter A		AGE(S): 14				
Employment:	DEBTOR		SPOUSE				
	sales engineer						
	Rutherford Supply						
	1.5 years						
Address of Employer 2	2522 Hermitage Rd Richmond						
	rojected monthly income at time case filed)		DEBTOR		SPOUSE		
1. Monthly gross wages, salary, and commissions (Prorate if not paid monthly)			3,683.33	\$	N/A		
2. Estimate monthly overtime		\$ _	0.00	\$	N/A		
3. SUBTOTAL		\$_	3,683.33	\$	N/A		
4. LESS PAYROLL DEDUCTIONS							
 a. Payroll taxes and social secur 	rity	\$_	280.37	\$	N/A		
b. Insurance		\$ _	411.32	\$	N/A		
c. Union dues		\$ _	0.00	\$	N/A		
d. Other (Specify): Dent		\$_	71.54	\$	N/A		
<u>Term</u>	life ins	\$ _	35.92	\$ <u> </u>	N/A		
5. SUBTOTAL OF PAYROLL DEDUCTIONS			799.15	\$	N/A		
6. TOTAL NET MONTHLY TAKE HOME PAY			2,884.18	\$	N/A		
7. Regular income from operation of	business or profession or farm (Attach detailed	statement) \$_	0.00	\$	N/A		
8. Income from real property			0.00	\$	N/A		
9. Interest and dividends		\$ _	0.00	\$	N/A		
dependents listed above	payments payable to the debtor for the debtor's	use or that of	533.00	\$	N/A		
11. Social security or government ass	istance	ф	0.00	Ф	A1/A		
(Specify):		\$ -	0.00	\$ <u></u>	N/A		
12 D				\$ <u></u>	N/A N/A		
12. Pension or retirement income13. Other monthly income		» –	0.00	» —	N/A		
(0 .0)		\$	0.00	\$	N/A		
(Specify).		* <u> </u>	0.00	\$	N/A		
14. SUBTOTAL OF LINES 7 THRO	OUGH 13	\$ <u>_</u>	533.00	\$	N/A		
15. AVERAGE MONTHLY INCOM	IE (Add amounts shown on lines 6 and 14)	\$_	3,417.18	\$	N/A		
16. COMBINED AVERAGE MONT	THLY INCOME: (Combine column totals from	line 15)	\$				

(Report also on Summary of Schedules and, if applicable, on Statistical Summary of Certain Liabilities and Related Data)

17. Describe any increase or decrease in income reasonably anticipated to occur within the year following the filing of this document:

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B6J (Official Form 6J) (12/07)

In re	Donald Duane Smith, Jr.		Case No.	11-32245
		Debtor(s)		

SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S)

Complete this schedule by estimating the average or projected monthly expenses of the debtor and the debtor's family at time case filed. Prorate any payments made bi-weekly, quarterly, semi-annually, or annually to show monthly rate. The average monthly expenses calculated on this form may differ from the deductions from income allowed on Form 22A or 22C.

expenses calculated on this form may differ from the deductions from income allowed on Form 22A or 22	2C.	
☐ Check this box if a joint petition is filed and debtor's spouse maintains a separate household. Complete expenditures labeled "Spouse."	ete a separat	e schedule of
1. Rent or home mortgage payment (include lot rented for mobile home)	\$	1,025.00
a. Are real estate taxes included? Yes X No No		
b. Is property insurance included? Yes X No		
2. Utilities: a. Electricity and heating fuel	\$	400.00
b. Water and sewer	\$	40.00
c. Telephone	\$	0.00
d. Other cell phones	\$	200.00
3. Home maintenance (repairs and upkeep)	\$	75.00
4. Food	\$	450.00
5. Clothing	\$	40.00
6. Laundry and dry cleaning	\$	0.00
7. Medical and dental expenses	\$	40.00
8. Transportation (not including car payments)	\$	300.00
9. Recreation, clubs and entertainment, newspapers, magazines, etc.	\$	50.00
10. Charitable contributions	\$	0.00
11. Insurance (not deducted from wages or included in home mortgage payments)		
a. Homeowner's or renter's	\$	0.00
b. Life	\$	0.00
c. Health	\$	0.00
d. Auto	\$	70.00
e. Other	\$	0.00
12. Taxes (not deducted from wages or included in home mortgage payments)		
(Specify) personal property taxes	\$	20.00
13. Installment payments: (In chapter 11, 12, and 13 cases, do not list payments to be included in the plan)		
a. Auto	\$	0.00
b. Other	\$	0.00
c. Other	\$	0.00
14. Alimony, maintenance, and support paid to others	\$	0.00
15. Payments for support of additional dependents not living at your home	\$	0.00
16. Regular expenses from operation of business, profession, or farm (attach detailed statement)	\$	0.00
17. Other work & school lunches	\$	100.00
Other	\$	0.00
18. AVERAGE MONTHLY EXPENSES (Total lines 1-17. Report also on Summary of Schedules and, if applicable, on the Statistical Summary of Certain Liabilities and Related Data.)	\$	2,810.00
19. Describe any increase or decrease in expenditures reasonably anticipated to occur within the year following the filing of this document:20. STATEMENT OF MONTHLY NET INCOME	_	
	¢	3,417.18
a. Average monthly income from Line 15 of Schedule Ib. Average monthly expenses from Line 18 above	\$	2,810.00
	\$ \$	607.18
c. Monthly net income (a. minus b.)	ψ	007.10

American General Finance 629 Southpark Blvd Colonial Heights, VA 23834

Anderson Financial Serv 2010 Blvd Colonial Heights, VA 23834

Applied Card Bank Attention: General Inquiries Po Box 17120 Wilmington, DE 19886

Bank of America PO Box 10423 Van Nuys, CA 91410

Barnes & Diehl, PC Centre Court Suite A 9401 Courthouse Rd Chesterfield, VA 23832

Baystate Gas-brockton Po Box 67015 Harrisburg, PA 17106

Cach Llc Attention: Bankruptcy Department 4340 South Monaco St. 2nd Floor Denver, CO 80237

Calvary Portfolio Services Attention: Bankruptcy Dept Po Box 1017 Hawthorne, NY 10532

Capio Partners Llc 2222 Texoma Pkwy Ste 150 Sherman, TX 75090

Cash 2 u 651 Boulevard Colonial Heights, VA 23834

Cash Advance Center 3235 Boulevard Colonial Heights, VA 23834

Cash Express of VA 1412 Blvd Colonial Heights, VA 23834

Citifinancial Bsp13a Baltimore, MD 21202

Collection Ccs Po Box 709 Needham, MA 02494

Commercial Check Control 7250 Beverly Blvd Suite 200 Los Angeles, CA 90036

Crown Financial 299 South Main St 13th Fl Salt Lake City, UT 84111

Customer Serv Support Center PO Box 28538 Henrico, VA 23228

Darlene Smith

Dynamic Recovery Solutions PO Box 25759 Greenville, SC 29616

First Bank of Delaware Brandywine Commons 1000 Rocky Run Pkwy Wilmington, DE 19803

HSBC PO Box 3425 Buffalo, NY 14240

HSBC Card Services PO Box 60102 City of Industry, CA 91716

Internal Revenue Service PO Box 7346 Philadelphia, PA 19101

Magnum Cash 1403 Foulk Rd St 203 Wilmington, DE 19803

NCO Financial Systems PO Box 15270 Wilmington, DE 19850

Sign My Loan PO Box 88491 418 Main Street Vancouver, BC

Springleaf Financial S 2307 E Washington St Petersburg, VA 23803

Tidewater Physical Therapy 771A Pilot House Dr Newport News, VA 23606

TRS Recovery Services 5251 Westheimer Houston, TX 77056

TRS Recovery Services, Inc PO Box 60022 City of Industry, CA 91716

Urosurgical Center of Richmond 9105 Stony Point Dr Richmond, VA 23235

VA Dept of Taxation PO Box 2156 Richmond, VA 23218

Virginia Urology 2025 Waterside Rd Prince George, VA 23875

Wells Fargo Hm Mortgag 8480 Stagecoach Cir Frederick, MD 21701

West End Orthopaedic Clinic PO Box 35725 Richmond, VA 23235

Zip 19 Lvl 8, Plaz Comm Ctr Bisazza S Sliema SLM 1640 Malta